DOCUMENT RESUME

ED 124 342 RC 009 244

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TITLE Peoples, Resources, and Lifestyles: The Hopi-Navajo Land Partition Act of 1974.
PUB DATE 11 Apr 76
NOTE 17p.; Paper presented at the Association of American Geographers Annual Meeting (New York, New York, April 11-14, 1976)

EDRS PRICE MF-$0.83 HC-$1.67 Plus Postage.
DESCRIPTORS *American Indians; Conflict; *Cultural Differences; Economics; Energy; *Federal Legislation; Land Settlement; *Land Use; *Life Style; *Natural Resources; Relocation; Reservations (Indian); Tribes; Water Resources
IDENTIFIERS Arizona; *Hopi Navajo Land Partition Act 1974; Hopis; Navajos

ABSTRACT

The Hopi and Navajo tribes have been engaged in a long and complex land dispute within the 1882 Executive Order Area (Joint Use Area) of Arizona, an area recently redefined via the Partition Act of 1974 which calls for the relocation of 5 to 10,000 Navajos. This rearrangement of political domain threatens to influence the future management and exploitation of land and mineral resources. Traditionally, the Navajo have existed as conjugal family clusters via a grazing economy requiring vast areas for life support, while the Hopi traditionally have lived in clustered villages cultivating small fields. Having grown much faster than that of the Hopi, the Navajo population has contributed to overgrazing and land deterioration in the Joint Use Area; consequently, the Partition Act also stipulates stock reduction to accommodate the carrying capacity of the Area. While surface areas are to be redefined by the Act, the coal and water rights beneath the surface are to remain jointly owned, but as yet the Native peoples haven't the economic/technical resources to develop these potentials. When these factors are coupled with the psychological and cultural implications of Navajo relocation, it becomes apparent that Hopi and Navajo lifestyles are being forced to operate within a framework of Anglo laws, complicated by the varying perceptions of three different peoples. (JC)

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PEOPLES, RESOURCES, AND LIFESTYLES: THE HOPI-NAVAJO LAND PARTITION ACT OF 1974

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ABSTRACT. The Hopi and Navajo Tribes have been engaged in a long and complex dispute over land ownership and use within the 1882 Executive Order Area (Joint Use Area) of Arizona. The land use habits and resource demands of the two tribes are considered in terms of spatial needs. The Act of Congress, December, 1974, which is designed to bring about a final settlement of the conflicting interests of the tribes is examined in terms of its consequences.

Paper presented at the annual meeting of the Association of American Geographers, April 11-14, 1976, New York City.

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The Navajo Reservation is located in the north eastern quarter of Arizona, and completely surrounds the smaller Hopi Reservation. Here a century old struggle between two groups of Native Americans for the ownership of two and one half million acres of semi-arid land is drawing to a close. (See Figure 1.) Reservation boundaries are to be redrawn, resulting in an expansion of Hopi lands. The Navajo are to receive as compensation for lost lands additional public or private territory at the margins of their present reservation. This rearrangement of the political domain will result in the forced relocation of from five to ten thousand Navajo and may also influence the future management and exploitation of land and mineral resources.

The Hopi-Navajo land conflict has been referred to as "the greatest title problem in the West" (Healing v. Jones, 1962, 127). It is a conflict deeply rooted in pre-European cultural patterns, contemporary resource management questions, and policies of the Federal government toward Native American Peoples. The dispute has such varied facets that it serves to illustrate the complexities of eliminating or minimizing social and economic injustices in a dilemma which is essentially spatial in nature.

ORIGINS AND ISSUES

The origins of the dispute lie in the settlement patterns of the Hopi and Navajo tribes and the federal policy of establishing quasi-autonomous "reservations", which is to say that the problem lies in the allocation of property rights to Native American peoples. The Hopi tribe claims ownership of a tract of land approximately 2877 square miles (1.85 million acres) in

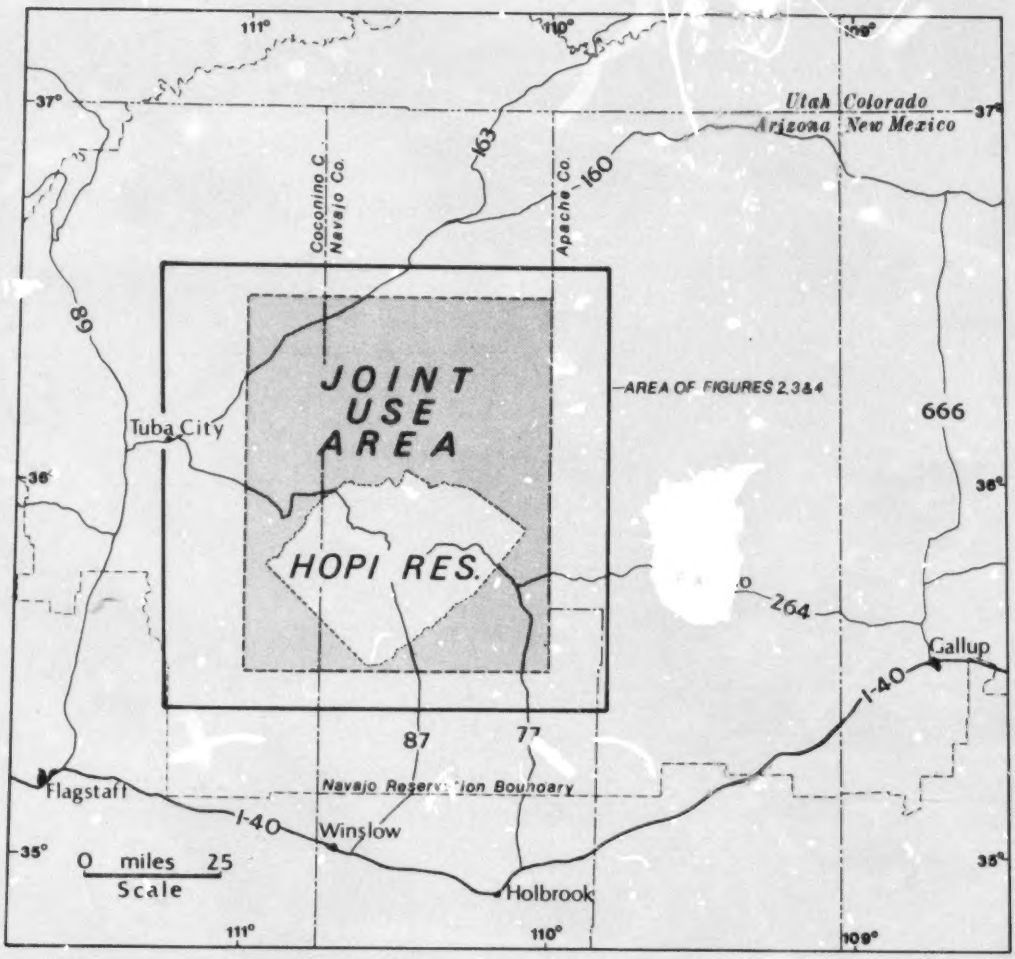
111°
110°
109°
37°
Utah Colorado
Arizona New Mexico
Coconino Co.
Navajo Co.
Apache Co.
163
160
89
JOINT USE AREA
AREA OF FIGURES 2,3&4
HOPI RES.
Tuba City
666
36°
264
Gallup
I-40
87
77
Navajo Reservation Boundary
Flagstaff
I-40
Winslow
35°
0 miles 25
Scale
Holbrook

Figure 1

size in which approximately twelve to thirteen thousand Navajo people reside. The disputed lands, presently called the Joint Use Area, are enclosed in a rectangular enclave in the heart of the Navajo Reservation. When the land partition act passed by Congress and signed into law in December, 1974, (88 Stat. 1712, 1974) is executed, the result will be the first large-scale Indian removal program of the 20th Century and the only removal program to displace one tribe from its claimed historic home in favor of property rights granted to another tribe by the U.S. Government. (See Figure 2.)

As an example of a policy of the Federal government toward minority groups, the land dispute has special interest. The question serves to illustrate the difficulties of applying an Anglo-Saxon legalistic solution to a property dispute outside the tradition of Anglo-Saxon property rights. The land dispute is even more complex. Underneath the scrubby grazing land of the Joint Use Area lie easily exploitable coal deposits of a least 2.5 billion tons and perhaps as much as 25 billion tons. (See Figure 3.) This, in addition to the potential for other mineral resources, makes the Joint Use Area a matter of economic interest to parties outside the two tribes at a time when energy resource development is a paramount objective of the Federal government.

The Hopi, traditionally living in clustered villages on mesa tops, cultivate small fields and herd domestic animals in the immediate vicinities of their homes. The Navajo, comprising the largest single tribe in the U.S., live in conjugal family clusters scattered over the arid to semi-arid landscape of their reservation.

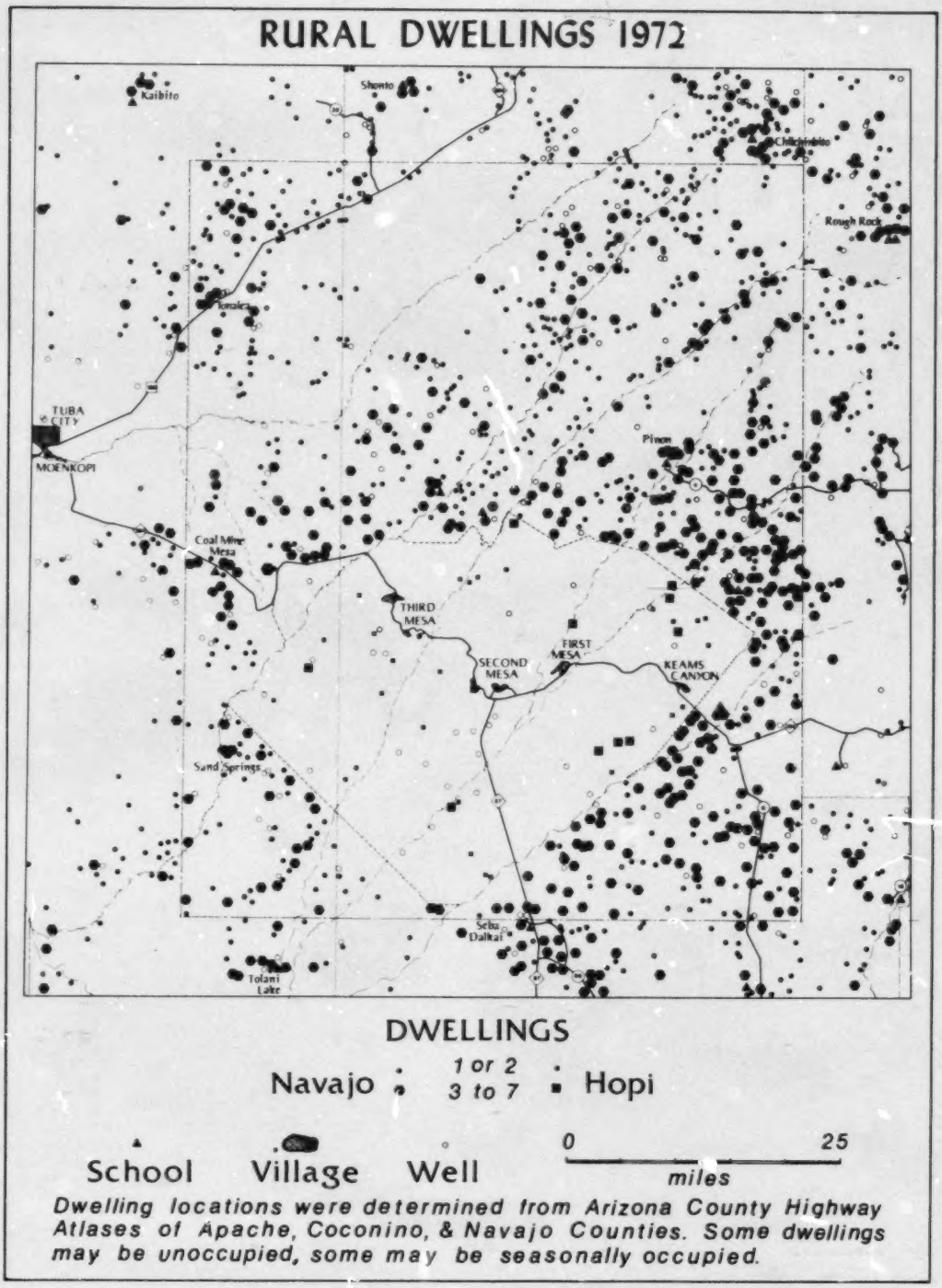
RURAL DWELLINGS 1972
Kaibito
Shonto
Rough Rock
TUBA CITY
MOENKOPI
Pinon
Coal Mine Mesa
THIRD MESA
SECOND MESA
FIRST MESA
KEAMS CANYON
Sand Springs
Tolani Lake
DWELLINGS
Navajo
1 or 2
3 to 7
Hopi
School
Village
Well
0
25
miles
Dwelling locations were determined from Arizona County Highway Atlases of Apache, Coconino, & Navajo Counties. Some dwellings may be unoccupied, some may be seasonally occupied.

Figure 2.

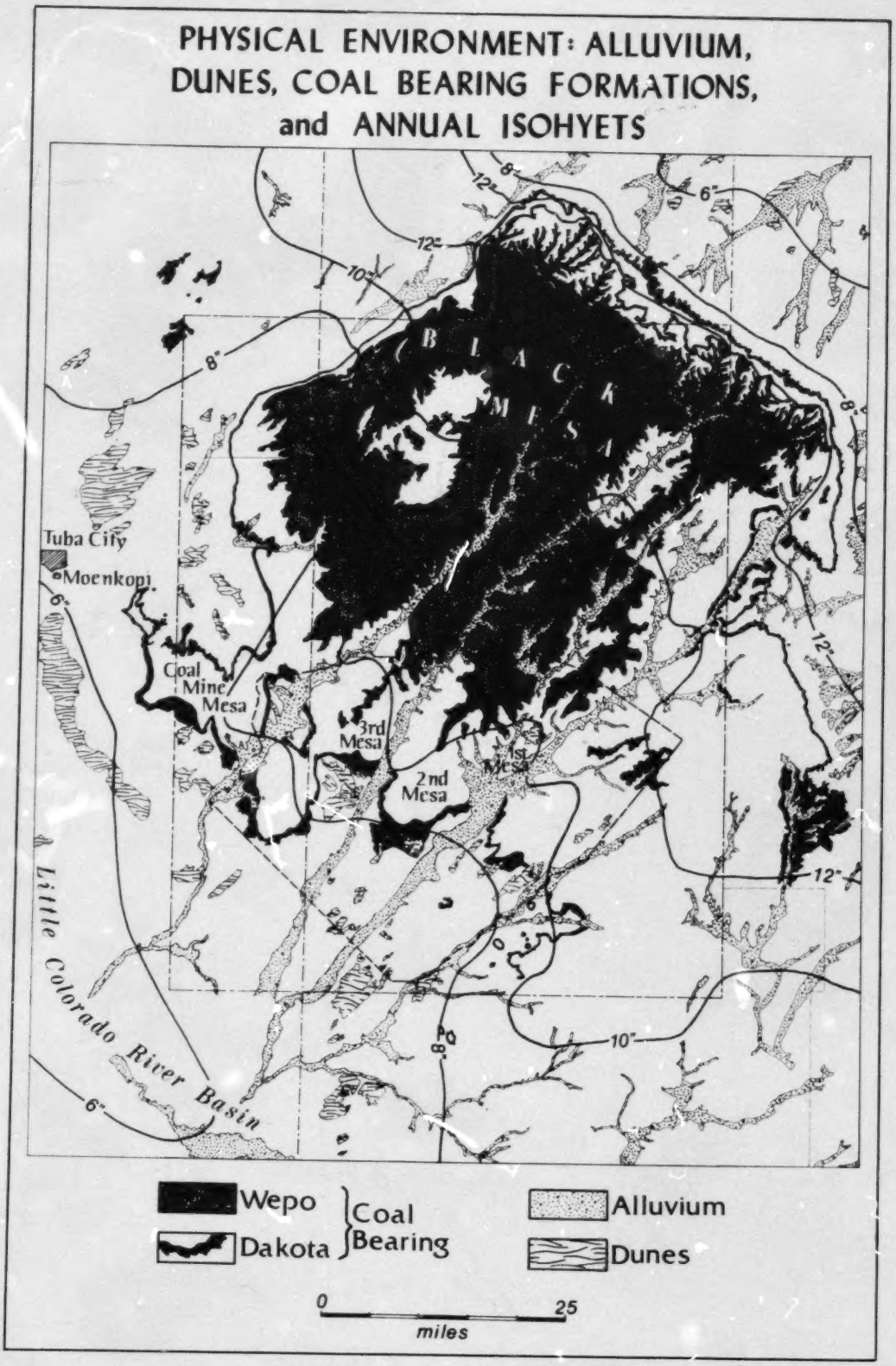
PHYSICAL ENVIRONMENT: ALLUVIUM,
DUNES, COAL BEARING FORMATIONS,
and ANNUAL ISOHYETS
BLACK MESA
Tuba City
Moenkopi
Coal Mine Mesa
3rd Mesa
2nd Mesa
1st Mesa
Little Colorado River Basin
Pq
6"
8"
10"
12"
Wepo
Dakota
Coal Bearing
Alluvium
Dunes
0
25
miles

Figure 3.

Due to the grazing economy, a single area can support only a few Navajo clusters. The solution to population growth has been the gradual diffusion into empty areas, resulting in the present pattern of rather evenly distributed family units.

The U.S. Government sought to recognize and protect the Hopi villages from both the progressive encroachment of Navajo settlement and from the intrusion of Anglo "inter-meddlers" by an Executive Order issured by President Chester A. Arthur in 1882 (Kappler, 1904, 805). The creation of a formal reservation allowed the eviction of "undesirable" Anglos from the Hopi villages, but the Executive Order made no reference to the rights of approximately three hundred Navajos then living inside the rectangular area. The hazy wording of the Executive Order did not give the Hopi exclusive rights to the designated area, nor did it make clear the status of the Navajo who had lived in the same area for years.

Since 1882, the human population of the Navajo Reservation has grown rapidly to a 1974 level of about 150,000. The Navajo population in the 1882 Executive Order Area (commonly known as the Joint Use Area) increased accordingly from about 300 to about 12,000 in 1975.

The smaller Hopi tribe has grown at a much slower rate from 1,813 in 1882 to about 6,000 in 1975. Since 1882, the total Navajo population has increased by a multiple of eight, while the Hopi population has only tripled.

The Federal District Court of Northern Arizona in a 1962 decision (Healing v. Jones) ruled that Navajo and Hopi tribal land-use rights in the Executive Order Area outside of the

Exclusive Hopi Reservation (District Six) were "joint, undivided, and with equal rights and interests" (Healing v. JOnes, 1962, 125). The court refused, however, to partition the area outside of the Hopi Reservation due to a lack of jurisdiction, leaving the two tribes to corporately administer the "Joint Use Area".

The Healing v. Jones decision represented an effort to provide a just solution on the basis of the pre-existing body of legal precedent. The decreed joint use of the area was not successful. The Navajo tribe refused to give up land-use rights, offering instead to purchase the Hopi half-interest in the Joint Use Area. The Hopi sought further assistance in the U.S. Congress. Political support developed for the Hopi claim, culminating in Congressional hearings and the passage of a bill in 1974 which provided for a boundary delimitation by a court-appointed arbitration board. Under the law, the land partition is to be carried out so that areas of high Navajo population, as far as practicable, are kept within Navajo areas. Access by each tribe to religious shrines and sacred places, is to be maintained. The law pertains only to surface rights; sub-surface rights are to remain jointly owned by both tribes. The relocation of Navajo families is to be financed by the Federal government, though the resettlement area is unspecified. The Navajo tribe is to receive 250,000 acres of land, public or private, for the resettlement. Also, the Hopi Reservation may be extended at one point outside the boundaries of the Joint Use Area to include the Moenkopi settlement, currently a part of the Navajo Reservation.

THE PEOPLE

The contrasting lifestyles and demands placed upon the environment by the Hopi and Navajo peoples are basic to any evaluation of the disputed area. This region of the United States has been continuously occupied and used for more than 1000 years and perhaps as long as 2000 years. The region has been distressed through a long period of increasing resource demands by a continuously growing human population.

The non-village settlement forms of the Navajo and their grazing practices have a more extensive environmental impact, requiring a much larger land area for life support. Although some favorable areas for cultivation exist in the northern reaches of Black Mesa stream valleys, higher elevations and hence colder winters, remoteness, difficulties of obtaining surface water, lack of energy to deliver ground water to fields limits the potential for irrigation. Grazing is the chief livelihood; in fact, the lands of this portion of Black Mesa have the highest potential among grazing lands of the entire Navajo Reservation.

Rhythmically, the Hopis maintain a very strong reliance upon annual cycles, particularly the growth cycle of cultivated plants and the occurrence of precipitation. Their annual cycle of native religious ceremonies is keyed to the quest for rain and fertility. Their village locations are strongly influenced by the occurrence of springs and ground water for domestic uses, the mesa tops formerly for defense advantages, and the broadening canyon mouths where the major streams descend from Black Mesa. On these canyon floors the annual rhythms of flooding, planting and harvesting are

undertaken to produce sustenance for the Hopi people. For the most part, Hopi efforts are confined to the limited areas around the base of First, Second, and Third mesas, and the flood plains of Moenkopi Wash near the village of Moenkopi.

Information compiled by the U.S. Geological Survey suggests that large quantities of high quality ground water are available in the northern portions of Black Mesa (McGavock, 1975). The Peabody Coal Company taps these ground water sources to supply water for their slurry pipe line which transports coal from the Black Mesa to Bull Head City in western Arizona. The lack of energy to pump deep ground waters to the surface is a handicap of the bucolic Indian. Windmills are used in some areas, but the excellent aquifers are too deeply situated for removal by wind-power.

The incongruity of the juxtaposition of an energy source (coal) and abundant ground water in a semi-arid region is a clear manifestation of the external focus of resource development in Indian lands. The electrical energy demands of southwestern urban areas have caused the tapping of Indian resources for the benefit of the non-Indian city. Although current Indian technology can not reach the deep ground water of Black Mesa, a persistently nagging question remains: should the ground water be retained for future use by the Indian, or can its use as a conveyance for coal be justified while the semi-arid lands remain parched?

The most important mineral resource of the Joint Use Area is coal. The total coal reserves of Black Mesa are not generally known, but the extensive outcrops of the coal bearing formations

and the structural nature of Black Mesa suggest that there are tremendously large areas which are capable of being strip mined. Efforts have been made by traditional groups of Navajos to limit the areas to be mined; their concerns are centered in their traditional beliefs that Black Mesa is a holy place and a source of strength to Navajo religious ways. National energy shortages, the inducement of royalties to a poor people and the Department of Interior's dual role in Indian affairs and minerals make it almost inevitable that mined areas will expand to the south and west as new lease agreements are concluded with the Hopi and Navajo tribes. Mining operations can be facilitated if the human element is devoided from the Black Mesa landscape. The removal of Navajo peoples will be an obvious convenience for the expansion of strip mining.

CONSEQUENCES OF THE SETTLEMENT

Public Law 93-531 which provides for the final settlement of surface rights of the 1882 Executive Order Joint Use Area and 1934 Addition of the Navajo Reservation lands, will result in the relocation of peoples and rearrangements of environmental stresses. Although the potential number of Navajo people involved in the relocation may seem small, traditional lifestyles require considerable amounts of land and the natural characteristics of the land are such that any additional demands may have a magnitude of devastation on an alteady pauperized landscape.

If the settlement follows past tendencies (as when the Hopi Reservation was created), it might be possible to assume that the densities of people will increase greatly in the areas north, east,

and southeast of the expanded Hopi Reservation. The result would be, obviously, an increase in population density, and an additional stress to the land (if livestock reduction is not effectively manages - and it has not been in the past) or more people and fewer per capita livestock (if herd reduction is accomplished). Although P.L. 93-531 contains provisions for herd reduction and relocation cost incentives including acquisition of new land which may be added to the present Navajo Reservation, two features of the Navajo populace would seem to work against the successful implementation of these provisions: one, the traditional strong ties of the Navajo to his land as a part of his being; and two, the traumatic results of past herd reductions which have left scars upon a people with drastically different concepts of wealth and poverty than those of Anglo-America.

In a statement presented to the Senate Committee considering legislation authorizing the partition of Hopi-Navajo lands, Otto L. Bendheim, M.D., cited three basic effects of enforced governmental regulations upon the Navajo: "(a) hostility toward white people and government; (b) destruction of Indian self-reliance; and (c) alienation from Indian culture" (U.S. Senate, 1972,233). The basic effects are reinforced by a statement given before the same committee in 1974, by Thayer Scudder, Ph.D. an anthropologist with expertise on the impact of compulsory relocation on world populations (U.S. Senate, 1974, 281). Scudder discusses three interrelated categories of multidimensional stress which affect peoples subjected to relocation: (1) psychological stress, "the grieving for a lost home syndrome"; (2) physiological stress,

a resultant of cultural conservation, an inability to adjust in major ways and a clinging to old activities in a new location. The observations of both Bendheim and Scudder speak to the difficulties which may arise from relocation.

Although present conditions are not favorable to improving environmental resources not do they leave much hope for economic and social improvement, it appears highly doubtful that relocation will accomplish much of favor for the Navajo. The Hopi will obviously benefit due to an expansion of land on which their herds could be grazed. If the Hopis could properly manage the land following a partition of the Joint Use Area conceivably the land quality could be greatly improved. A basic question remains, however, what becomes of the displaced Navajos? Although provisions are made in Public Law 93-531 for the transfer of a maximum of 250,000 acres from Bureau of Land Management lands in Arizona or New Mexico to the Navajo Reservation, it is very doubtful that lands of any higher grazing quality can be located to replace any land which may be partitioned to the Hopi Tribe. Reservation lands are in most instances not much different than non-reservation areas - overgrazing is not a product of Indian use alone, non-Indian inhabitants have also over extended the use of grazing lands. The Navajo presented a proposal to acquire land in the House Rock Valley area, an area west of Marble Canyon National Monument and northeast of Grand Canyon National Park. (See Figure 1.) The area is no better that reservation land for a grazing economy. An alliance of interest groups - conservationists, ranchers, sportsmen and some Navajos and Hopis was created to block the acquisition of

this area for Navajo use.

Hopi-Navaho lands present marginal conditions at best. The constant demands placed upon them over a period of at least fifteen centuries by an ever increasing human population and domestic livestock population, compounded by several extended periods of drought including the current dry period which began about 1880, have severely strained this resource base.

Records indicate that as carrying capacities decrease each year, the extent of overgrazing annually increases and the total human population increases, the entire man-resource system is drastically imbalanced.

Public Law 93-531 authorizes and directs the Secretary of the Department of Interior to "immediately commence reduction of the numbers of all livestock now being grazed upon the lands within the Joint Use Area and complete such reductions to carrying capacity of such lands ... after the date of enactment of this act". The Secretary is also directed to improve the grazing potential of the area "to the maximum extent feasible". The extent of overgrazing has accelerated rapidly in the past several years; current estimations of 700 to 800 percent overgrazing are not uncommon for the Joint Use Area.

Past attempts to control overgrazing have largely met with failure and frustration on the part of the government agencies, and bitterness and hostility on the part of the Navajo. The Hopi have also been guilty of range overstocking, although data is not generally available to support the current status of their District

Six ranges.

To reduce the herds at this time may mean possible reduction to 1/10 of existing herds. The effects of reduction could be traumatic as witnessed by this statement of Peter MacDonald, Chairman of the Navajo Tribal Council:

> During the 1930's and 1940's a program of forced livestock reduction was undertaken throughout Navajo Country...To save the land, no matter what the cost to the people, was the goal of this program. To accomplish this goal, the Soil Conservation Service and the Bureau of Indian Affairs would leave a family with less livestock than it needed to live. The horrors of those days are etched in our memories. I can remember as a child watching Government agents pour kerosene over our animals and setting them afire, then going to bed hungry that night.

The Hopi-Navajo Land Dispute directs attention to an amazing number of inequalities and injustices to both mankind and his habitat. Events which were set in operation hundreds of years ago within an environment which requires skillful and careful management have produced a complex set of cultural, political, economic, and environmental problems. Hopi and Navajo lifestyles and traditions have been forced to operate within a framework of Anglo laws and legislative processes, thus confounding the search for a solution to the problem created by the nebulous 1882 Executive Order Reservation. Despite the declarations of legislators to seek a fair and expeditious conclusion to the dispute, it remains with the tribes and/or the District Court to settle the dispute. The problem is one of conflict between perceptions and attitudes of three peoples. To understand, to manage, to rectify these problems is an immense challenge.

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